

MEMO ENDORSED

August 25, 2023

**Sent by ECF**

Hon. Kenneth M. Karas  
United States District Court  
Southern District of New York  
300 Quarropas Street  
White Plains, New York 10601

RE: *City of Newburgh v. AGC, Inc., et al.*  
Case No. 7:23-cv-07370

Dear Hon. Karas:

Plaintiff, City of Newburgh (“Plaintiff”), and Defendants EIDP, Inc. (formerly known as “E.I. du Pont de Nemours and Company”<sup>1</sup>), The Chemours Company, The Chemours Company FC, LLC, Corteva, Inc. and DuPont de Nemours, Inc. (collectively, “DuPont Entities”), by and through undersigned counsel, request the Court to stay all proceedings in this action, until after the Judicial Panel on Multidistrict Litigation (“JPML”) has ruled on whether to transfer this action to a multidistrict litigation pending before the Honorable Richard M. Gergel in the District of South Carolina, *In re Aqueous Film-Forming Foams (AFFF) Products Liability Litigation* (MDL No. 2873) and state the following in support of their request:

1. The DuPont Entities removed this case from the New York State Supreme Court, Orange County, to the Southern District of New York on August 18, 2023. Dkt 1. Pursuant to Federal Rule of Civil Procedure 81(c)(2)(C), Defendants are to respond to

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<sup>1</sup> Incorrectly named in caption as “E.I. DU PONT DE NEMOURS AND COMPANY.”

Plaintiff's Complaint by August, 25, 2023. Plaintiff does not intend to move for remand back to State Supreme Court.

2. On August 22, 2023, the DuPont Entities also filed a Notice of Potential Tag-Along Actions before the United States Judicial Panel on Multidistrict Litigation in *In re: Aqueous Film-Forming Foams Products Liability Litigation*, MDL No. 2873, a copy of which is attached as "Exhibit A."

3. Transfer of this case to MDL No. 2873 would moot any need for this Court to rule on motions to dismiss filed by Defendants or decide any other issues in this case. Further, transfer of this case to MDL No. 2873 would have a significant impact on the arguments made by the parties with regards to initial pleadings and motions.

4. For the foregoing reasons, the Parties, including all Defendants, have discussed and agree a stay of all proceedings in this case pending the outcome of the transfer to MDL No. 2873 is warranted to promote judicial economy and efficiency. The proposed stay would conserve the resources of all Parties and this Court, and would not prejudice any party.

5. The Parties agree that if the JPML issues a final denial of transfer of this case to MDL No. 2873, Defendants shall have fourteen days to respond to Plaintiff's Complaint.

DuPont Entities and Plaintiff respectfully request that this Court stay all proceedings in this case pending the outcome of transfer to MDL No. 2873.

We thank the Court in advance for its time and consideration.

Respectfully submitted,

**SHOOK, HARDY & BACON L.L.P.**

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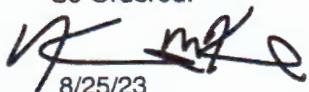
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Granted. The case is stayed until  
further order of the Court. The Parties  
are asked to keep the Court informed  
on the MDL proceedings.

So Ordered.

  
8/25/23

*Attorneys for Plaintiff*